IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 109/2005

MAQSOOD & ORS. Vs. STATE OF RAJASTHAN & ANR.

DATE: 19.01.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Amit Jindal for the accused-petitioners.
Mr. Ashwani Kumar Sharma, PP for the State.

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This revision petition under Section 397 r/w Section 401 Cr.P.C. is directed against the order dated 20.01.2005 passed by the Additional Sessions Judge, Sawai Madhopur in Sessions Case No. 26/2004, whereby the accused-petitioners have been charged for the offences under Sections 498-A and 304-B IPC.

Learned counsel for the petitioners submits that so far as charge under Section 304-B IPC is concerned, as per the 'Parcha-Bayan', marriage took place 15 years back and this charge can only be framed where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of

her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death” and such husband or relative shall be deemed to have caused her death.

I have heard learned counsel for the accused-petitioners, learned Public Prosecutor for the State and have also gone through the impugned order.

It appears that while framing the charges, the trial Court has not properly considered the provisions of law, although the learned Public Prosecutor appearing for the State has pointed out that as per the custom, 'Gauna' was undertaken four years before her death and the deceased wife was living with her husband since their Gauna took place and thus, the offence is committed within the period of seven years, therefore, charge under Section 304-B IPC has been framed against the accused-petitioners.

Be that as it may, for the purpose of reconsideration only on the charge under Section 304-B IPC, the trial Court is directed to hear the matter afresh and frame charge after giving opportunity of being heard to the parties in accordance with the provisions of law and pass speaking order. For rest of the charges, this revision petition is not maintainable and no interference is required by this Court.

With these observations, the revision petition 9stands partly allowed.

(K.S. RATHORE),J.

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